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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,922	01/31/2001	Yasuaki Ikemura	826.1672/JDH	9972

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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/772,922

Applicant(s)

IKEMURA ET AL.

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 5-9 and 12-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10, 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

A call was place to Atty. Gollhofer regarding the species requirement remaining in the outstanding election requirement. Election was made without traverse to invention/species of claims 2-4. Claims 5,6,7,8,9/ 12-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/14/05.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,3,4,10, and 11are rejected under 35 U.S.C. 103(a) as being unpatentable over WO/29578 in view of Manchala.

WO 96/29578 discloses a receiving unit receiving order signal including remainder quantity information that shows a remainder quantity of merchandise (interface 104 receives a signals resulting from comparing projected usage level to actual and a resultant signal which prompts a delivery); a prediction period calculation unit (system 10 predicts storage tank product levels based on forecasted and actual usage rates, page. 17 lines 18-34) calculating a period until a remainder quantity of the merchandise is exhausted based on purchase history of a purchaser and the remainder

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quantity information. However, WO 96/29578 does not disclose an order information preparation unit a shop where the merchandise can be purchased most cheaply, selling price the merchandise, and preparing order information based on the selection with the order unit ordering the merchandise from the selected shop based on the order information. But, Manchala et al. disclose an order preparation unit which selects a supplier based on the cheapest price and calculated period (leeway) (see col. 6 , lines 23-30 vendors A/B selected based upon price). It would be obvious to modify the apparatus 10 in WO '578 to include the best priced vendor feature of Manchala et al. the motivation this would allow for cost savings for the buyer.

Re claim 2: Manchala et al. disclose timing an order e.g. setting a purchase day in col. 6 and when and where the merchandise can be purchased most cheaply, taking into consideration, the calculated period, the order unit places an order with the selected shop so that the merchandise can be purchased on the selected purchase day (one of vendors A/B is selected based upon leeway e.g. calculated period and purchase day is read as the day where the inventory is depleted beyond an allowable level. The cost of delivery as part of a purchase price is old and notorious and official notice is hereby taken thereof. The motivation is again repeated as allowing for cost savings for the buyer.

Re claim 3: Manchala et al. disclose the variation between the price offered by vendors A or B is read as a fluctuation. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Re claim 4: Manchala et al. disclose evaluating current demand which is deemed to be an obvious variant of season change (holiday season vs. regular time) and purchase history. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Re claim 10: col. 6 line 18 in Manchala et al. disclose inventory level which is read as a predetermined quantity. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Re claim 11: WO/96/29578 disclose fluid inventory. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

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Joseph A. Fischetti
Primary Examiner
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A handwritten signature in black ink, appearing to be 'JAF', located below the printed name and title.